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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,486	07/16/2007	Yasuchika Takei	TAKEI 54	9144
1444	7590	08/21/2008	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			GUTMAN, HILARY L	
ART UNIT	PAPER NUMBER			
			3612	
MAIL DATE	DELIVERY MODE			
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/574,486	<b>Applicant(s)</b> TAKEI ET AL.
	<b>Examiner</b> Hilary Gutman	<b>Art Unit</b> 3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 May 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2 and 3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2 and 3 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/OS/02/06)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation that the upper surface of the movable plate is “free of” zigzags and elastic members. However, the claim should only recite positive limitations of the invention and not what is lacking. Specifically, the upper surface could be free from any number of items but this adds no properties or structural limitations to further limit what the claimed invention does, in fact, recite.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 2-3, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Rupiper et al. (6,773,049).

Rupiper et al. disclose a vehicle seat comprising: a base frame 46 arranged to be attached to a vehicle body 10; a movable plate 42 mounted to a front bracket 50 of the base frame by a front mounting shaft, the movable plate being rotatable such that the rear end of the movable plate rotates vertically about the front mounting shaft; and a cushioning mechanism disposed between the base frame and movable plate; wherein the cushioning mechanism includes an upper connector connected to the movable plate and a lower connector connected to the base frame; wherein the upper connector and the lower connector are coupled to each other by a viscous material damper 120, 122 and a spring 70, 72, the damper being adapted to apply resistance to relative movement of the upper connector and the lower connector, and the spring being adapted to receive and support a load acting on the lower connector from the upper connector. The movable plate 42 is furnished with a thin elastic member 14a. And the upper surface of the movable plate is free of zigzags and elastic members.

5. Claims 2-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Ritchie et al. (6,371,456).

Ritchie et al. disclose a vehicle seat comprising: a base frame 64 arranged to be attached to a vehicle body 14; a movable plate 22 (102, 104) mounted to a front bracket of the base frame by a front mounting shaft 72, the movable plate being rotatable such that the rear end of the movable plate rotates vertically about the front mounting shaft; and a cushioning mechanism disposed between the base frame and movable plate; wherein the cushioning mechanism includes an upper connector 90, 92 connected to the movable plate and a lower connector 60, 62 connected to the base frame; wherein the upper connector and the lower connector are coupled to

each other by a viscous material damper 201 and a spring 170, the damper being adapted to apply resistance to relative movement of the upper connector and the lower connector, and the spring being adapted to receive and support a load acting on the lower connector from the upper connector. The movable plate is apparently furnished with a thin elastic member (Figure 3A) and the upper surface of the movable plate is free of zigzags and elastic members.

*Allowable Subject Matter*

6. The indicated allowability of claims 2-3 is withdrawn in view of the changes to the claims and reference(s) to Rupiper et al. and Ritchie et al. Rejections are set forth above.

*Response to Arguments*

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 571-272-6662.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hilary Gutman/  
Primary Examiner, Art Unit 3612